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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/709,323

Applicant(s)

FAY ET AL.

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24, 26-37 and 40-63 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-24, 26-37 and 40-63 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/29/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Final Office action is responsive to Applicant's amendment filed September 29, 2004.

2. Claims 1, 26, 27, 29, and 32 have been amended.

Claims 25, 38, and 39 have been cancelled.

Claims 1-24, 26-37, and 40-63 are pending.

3. The previously pending rejection under 35 U.S.C. § 101 is withdrawn in response to Applicant's amendment of claim 1.

The previously pending rejection under 35 U.S.C. § 112 is withdrawn in response to Applicant's claim amendments.

The previously pending rejections under 35 U.S.C. § 102(b) are withdrawn in response to Applicant's claim amendments and arguments.

### ***Response to Arguments***

4. Applicant's arguments filed September 29, 2004 have been fully considered but they are not persuasive.

Regarding claim 1, Applicant argues:

...In some embodiments of the application, the desired performance level is a particular field sound transmission class or coefficient. The Office Action cites to Higgins at ¶ 24 and 26 as disclosing this feature. However, a close reading of Higgins shows that there was no predetermined cost or acoustical performance level established for the

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office panels to achieve as a result of the testing. In fact, Higgins is completely silent regarding the threshold step of inputting project information. In Higgins, Herman Miller merely wanted to generally "improve the value of its free-standing panels" and did so by first testing the performance of the panels (¶¶ 24, 25). In contrast, the present claimed invention starts with a specific performance level and automatically modifies the input project information with selected enhancement solutions to meet the input, predetermined performance level of the entire project, such as a building. Also, Higgins is limited to a laboratory experiment where individual components, such as office panels and furnace motors, not an entire project as claimed herein, are tested for their acoustical performance. (Pages 11-12 of Applicant's response)

It should be noted that the sound transmission rating is recited in dependent claim 63 and not in claim 1. Furthermore, Herman Miller's conveyed desired to Johns Manville that it wants to "improve the value of its free-standing panels" is input (or conveyance) of a "desired performance level," as recited in independent claim 1. Redesigning a free-standing panel is a type of project. Furthermore, Herman Miller's panels are for offices; therefore, the sound reduction characteristics of these panels inherently affect the noise levels associated with the offices and their respective building structures (thereby addressing claims 2 and 3). The use of office panels is in and of itself exemplary of a desire to reduce noise between areas (as per claim 5). Higgins' disclosed "sound transmission coefficients" and "noise reduction coefficients" both exemplify aspects of a sound transmission rating since each factor represents a level of how much sound is transmitted, e.g., through a given material. Higgins provides the specific example of how "the Government Services Administration (GSA) is in the process of evaluating and reducing the acoustical ratings of office panels from 80 NRC

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to 65 NRC because they have deemed the difference between the two to be insignificant. If this happens, many manufacturers may be able to reduce their costs by improving material." (¶ 28) By comparing the difference in an acoustical rating of 80 NRC and 65 NRC, GSA is comparing a desired performance level of 80 NRC to a desired performance level of 65 NRC, each of which would place certain material restrictions (i.e., enhancement solutions) on a manufacturer, thereby addressing the language of claim 63.

The revised art rejection below addresses the claims as amended.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-5, 12-14, 16-18, 26, 27, 32, 33, 41-45, 47-51, 54, 55, 57, 62, and 63 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by the SoundPLAN simulation software, as disclosed in the archived web pages of <http://www.soundplan.com> (archived from March 6, 2000 through March 7, 2000).

SoundPLAN is a software package that includes a noise evaluation module (see at least page 3). SoundPLAN's Wall Design module is an interactive module that allows a user to enter various residential or industrial project information (Page 29), including desired performance factors (such as a maximum acceptable noise level, room

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geometry, the sound transmission class (STC) of the walls, and window size), and it "calculates the required STC for windows, and if needed, gives advice if forced air ventilation etc. is required." (Page 32) The Wall Design module also outputs a recommended optimum wall shape, which can be imported for use in other modules for further project calculations (Page 32).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-24, 26-37, and 40-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johns Manville's acoustical testing services, as disclosed in the following references:

Higgins, "Don't Just Sit There" (published February 1999); and

Gornick, "The Quest for Quiet" (published December 1997).

*in view of* the SoundPLAN simulation software, as disclosed in the archived web pages of <http://www.soundplan.com> (archived from March 6, 2000 through March 7, 2000).

Johns Manville discloses a method for enhancing the performance of a project, comprising the steps of:

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[Claim 1]     inputting project information, including a desired performance level (Higgins: ¶¶ 24, 26 – Customer Herman Miller explained to Johns Manville that it desired a performance level that would “improve the value of its free-standing panels for office without negatively impacting the acoustical results”); and

              selecting enhancement solutions based on the project information (Higgins: ¶¶ 26-27 – Johns Manville recommended that less expensive panels be used instead);

              modifying the inputted project information to incorporate the enhancement solutions (Higgins: ¶¶ 26-28 – Several combined solutions include eliminating some of the structural members, while redesigning the panels and using a different material to create at least some of the panels);

[Claim 2]     wherein the project information comprises building plans for a structure (Higgins: ¶¶ 26-28 – The office panels are part of the office building structure);

[Claim 3]     wherein the project information comprises information on the uses of rooms within the structure (Higgins: ¶¶ 23, 26-28 – The fact that office panels are being assessed imparts knowledge that the rooms within the structure are being used for office-related activities);

[Claim 4]     wherein the project information comprises information on interior structural elements (Higgins: ¶¶ 23, 26-28 – The panels are interior structural elements);

[Claim 5]     wherein project information comprises information on areas within a structure, and wherein the desired performance level is a performance of noise reduction between the areas (Higgins: ¶¶ 24, 25, 28 – Johns Manville's acoustical

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testing is understood to evaluate the effectiveness of noise reduction techniques, such as installing noise-reducing panels; Gornick: ¶ 41);

[Claim 6] wherein the enhancement solutions are selected from a plurality of enhancement solutions stored in a sound control center (Higgins: ¶ 23 – All testing is performed at Johns Manville's NAVLAP-approved laboratory; therefore, the solutions yielded by the acoustical testing performed at the laboratory are understood to be "stored" in a sound control center, i.e., the laboratory);

[Claim 7] wherein each enhancement solution is combinable with another enhancement solution to form a combination of enhancement solutions (Higgins: ¶¶ 26-28 – Several combined solutions include eliminating some of the structural members, while redesigning the panels and using a different material to create at least some of the panels);

[Claim 8] wherein a system performance rating is associated with each combination of enhancement solutions, and wherein each system performance rating is stored in the sound control center (Higgins: ¶¶ 25, 26-28 – Johns Manville measures sound transmission coefficients (STC) and noise reduction coefficients (NRC), which are used to evaluate acoustical ratings, and yields test results based thereon at the laboratory; therefore, it is understood that the laboratory somehow keeps track of, i.e., stores, information regarding system performance ratings);

[Claim 9] wherein each system performance rating is a field sound transmission class rating (Higgins: ¶¶ 25, 28 – STC and NRC measurements are collected during testing);



[Claim 10] wherein the step of selecting further comprises the step of choosing a combination of enhancement solutions with a system performance rating equal to or greater than the desired performance level (Higgins: ¶¶ 24, 26, 28);

[Claim 11] wherein a cost is associated with each combination of enhancement solutions and wherein the combination of enhancement solutions is also chosen based on cost (Higgins: ¶¶ 23-28);

[Claim 12] wherein the step of selecting further comprises the step of reviewing the project information to determine improvement areas (Higgins: ¶¶ 23-28);

[Claim 13] wherein the enhancement solutions are selected based upon the determined improvement areas (Higgins: ¶¶ 23-28);

[Claim 26] wherein the modified inputted information describes a project operating at the desired performance level (Higgins: ¶¶ 23-28);

[Claim 27] further comprising the step of presenting the modified project information to a user (Higgins: ¶¶ 23-28);

[Claim 60] wherein each system performance rating is verified by experimentation (Higgins: ¶¶ 23-28);

[Claim 63] wherein the desired performance level is a field system sound transmission rating (Higgins: ¶¶ 25, 26-28).

As per claim 1, Johns Manville's does not expressly teach that the step of "selecting enhancement solutions based on the project information" is performed by a computer. However, SoundPLAN is a software package that includes a noise

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evaluation module (see at least page 3). SoundPLAN's Wall Design module is an interactive module that allows a user to enter various residential or industrial project information (Page 29), including desired performance factors (such as a maximum acceptable noise level, room geometry, the sound transmission class (STC) of the walls, and window size), and it "calculates the required STC for windows, and if needed, gives advice if forced air ventilation etc. is required." (Page 32) The Wall Design module also outputs a recommended optimum wall shape, which can be imported for use in other modules for further project calculations (Page 32). Clearly, SoundPLAN is capable of automatically performing the types of acoustical testing services manually performed by Johns Manville. Furthermore, the Examiner asserts that it is old and well-known in the art of computer automation to utilize a computer to automate calculations and evaluations traditionally performed by hand. This provides the benefits of improving accuracy and speed when completing such calculations and evaluations. Both SoundPLAN and Johns Manville provide their customers with noise simulation services; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance Johns Manville's consulting services by allowing them to select enhancement solutions through use of a reviewing computer and software (such as SoundPLAN) in order to facilitate more rapid and accurate sound-related calculations and evaluations.

Regarding claims 14, 15, and 62, Johns Manville conducts various types of acoustical testing to make recommendations regarding insulation improvements; however, Johns Manville does not expressly teach that the determined improvement

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areas include acoustical weak links (claim 14), wherein the weak links include penetrating items, construction discontinuities, sound transmission through structural components, and cross-talk through ducts (claim 15) and wherein the weak links include components having component performance ratings less than the desired performance level (claim 62). However, Official Notice is taken that it is old and well-known in the art of acoustical consultation to assess acoustical weak links, including penetrating items, construction discontinuities, sound transmission through structural components, and cross-talk through ducts, and wherein the weak links include components having component performance ratings less than the desired performance level, in order to identify areas for acoustic-related improvement. Evaluation of as many of these elements as possible yields a more comprehensive acoustical assessment. Johns Manville's goal is to provide its customers with recommendations for insulation improvements; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Johns Manville's acoustical testing services to incorporate an assessment of improvement areas such that the determined improvement areas include acoustical weak links (claim 14), wherein the weak links include penetrating items, construction discontinuities, sound transmission through structural components, and cross-talk through ducts (claim 15) and wherein the weak links include components having component performance ratings less than the desired performance level (claim 62) in order to facilitate a more comprehensive analysis, thereby yielding better testing results and attracting more customers.

As per claims 16-19, Johns Manville makes recommendations to eliminate some of the structural members, while redesigning the panels and using a different material to create at least some of the panels, yet Johns Manville does not expressly teach that at least one of the enhancement solutions involves the addition of a sound control component (claim 16), wherein the sound control component is a sound control material installed in a wall, floor or ceiling assembly (claim 17), wherein the sound control component is a material for sealing wall, floor, and ceiling perimeters (claim 18), or wherein the sound control component is an acoustically enhanced door (claim 19). However, Official Notice is taken that it is old and well-known in the art of sound control to reduce noise through the addition of a sound control component, such as one installed in a wall, floor or ceiling assembly, or a material used for sealing wall, floor, and ceiling perimeters, or an acoustically enhanced door. Johns Manville performs myriad acoustical testing services, yet the cited article only discloses a limited sample of recommendations provided to its customers. The concept of implementing sound control components in a building design is extremely widespread and serves as a solution to many noise reduction problems. As a matter of fact, Johns Manville provides fiberglass insulation, which is a common material used for sound control; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Johns Manville's acoustical testing service to make recommendations involving the addition of a sound control component (claim 16), wherein the sound control component is a sound control material installed in a wall, floor or ceiling assembly (claim 17), wherein the sound control component is a material for

sealing wall, floor, and ceiling perimeters (claim 18), or wherein the sound control component is an acoustically enhanced door (claim 19) in order to provide its customers with more comprehensive solutions to their noise reduction problems, thereby attracting more customers.

Similarly, the indirect positioning of interior components (claim 20), including electrical outlets, air ducts, and fluid filled pipes (claim 21) are also well-known solutions to noise reduction problems. Also, other well-known noise reduction solutions involve the discontinuous construction of structural elements of the project (claim 22), wherein the at least one enhancement solution comprises the staggering of wall studs (claim 23) or wherein the at least one enhancement solution comprises the addition of a cut line in a floor or floor elements (claim 24). Again, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Johns Manville's acoustical testing service to make recommendations involving the indirect positioning of interior components (claim 20), including electrical outlets, air ducts, and fluid filled pipes (claim 21), and the discontinuous construction of structural elements of the project (claim 22), wherein the at least one enhancement solution comprises the staggering of wall studs (claim 23) or wherein the at least one enhancement solution comprises the addition of a cut line in a floor or floor elements (claim 24) in order to provide its customers with more comprehensive solutions to their noise reduction problems, thereby attracting more customers.

In reference to claim 28, Johns Manville implies the use of technology to conduct its acoustical testing and collect corresponding results, yet it does not expressly

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disclose that the modified project information (e.g., acoustically-related recommendations) is transferred from the sound control center (i.e., the laboratory) to a remote computer. However, Official Notice is taken that it is old and well-known in the art of testing and networking to provide testing results remotely to another user. This allows remotely located people to quickly, inexpensively, and conveniently collaborate on a project. Johns Manville's testing assists its customers in these customers' respective building projects, such as Herman Miller's office panel design. In other words, Johns Manville's testing results are ultimately used in collaboration with the building plans of its remotely located customers; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Johns Manville's modified project information (e.g., acoustically-related recommendations) to be transferred from the sound control center to a remote computer (claim 28) in order to facilitate that Johns Manville and its remotely located customers can quickly, inexpensively, and conveniently collaborate on a noise reduction project.

As per claims 29 and 30, Johns Manville makes recommendations to eliminate some of the structural members, while redesigning the panels and using a different material to create at least some of the panels, yet Johns Manville does not expressly teach the provision of a bill of materials *per se*, including related cost information. However, Higgins describes a specific scenario in which Johns Manville's customer Herman Miller takes recommendations from Johns Manville and incorporates them into an actual building design. Johns Manville's assessment also addresses potential for

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cost reduction as part of the noise reduction aspect of the building project.

Furthermore, Official Notice is taken that it is old and well-known in the art of construction to convert an assessment of what materials are required and how much they cost into a formal bill of materials in order to place an order for the needed materials from a third party supplier. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention for Johns Manville to adapt its modified project information to include a bill of materials that includes cost information in order to facilitate the placement of an order for the needed materials from a third party supplier.

Furthermore, as per claims 31 and 61, Johns Manville's customers presumably implement its recommendations, as shown in the Herman Miller scenario. Also, as discussed in the rejection of claim 30 above, Johns Manville takes into account material costs in order to assess potential cost savings. Johns Manville does not explicitly provide a list of tasks based on the selected enhancement solutions (i.e., recommendations); however, Official Notice is taken that it is old and well-known in the art of project management to plan a list of tasks associated with accomplishing building recommendations and plan a budget accordingly based on both materials and labor costs. Task assignment facilitates efficient planning of a project so that the project is more likely to be completed in a timely fashion. Budget planning based on both materials and labor costs helps to ensure that the project is economically feasible. Since Johns Manville's customers presumably implement its recommendations, as shown in the Herman Miller scenario, the Examiner asserts that it would have been

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obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Johns Manville's modified project information to include a list of tasks based on the selected enhancement solutions (claim 31) as well as a budget including information related to both materials and labor costs (claim 61) in order to facilitate efficient planning of a project so that the project is more likely to be completed in a timely and economically feasible fashion.

[Claims 32-37, 40-59]      Claims 32-37 and 40-59 recite limitations already addressed by the rejection of claims 1-24, 26-31 and 60-63 above; therefore, the same rejection applies.

Regarding claim 32, Johns Manville implies the use of technology to conduct its acoustical testing and collect corresponding results, yet it does not expressly disclose the use of a central computer *per se* for receiving project information. Official Notice is taken that it is old and well-known in the art to utilize a central computer for gathering testing information in order to facilitate quick and accurate analysis of data via computer calculations by eliminating many elements normally associated with human error. Johns Manville's acoustical testing is fairly complex in nature; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with Johns Manville's testing at its laboratory a central computer for receiving project information in order to facilitate quick and accurate analysis of data via computer calculations by eliminating many elements normally associated with human error. Johns Manville's testing and analysis (including



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design recommendations) occur at its laboratory; therefore, the Examiner asserts that the modified version of Johns Manville's testing (including a central computer) would necessarily incorporate the central computer at the laboratory as well. Effectively, the central computer is interpreted as being located in a design department (claim 34) in the control center (claim 35), i.e., the laboratory, in a main facility (claim 36), i.e., the laboratory. (It should also be noted that the location of the central computer has no effect on the recited structure or functionality and therefore merits little, if any, patentable weight.)

Further regarding claim 32, Johns Manville's recommends solutions for noise reduction; therefore, it is understood that some type of reviewer generates the proposed solutions. In line with the immediately preceding analysis, the Examiner asserts that the modified version of Johns Manville's testing (including a central computer) would necessarily incorporate the reviewer at the laboratory as well. Effectively, the reviewer is interpreted as being located in the control central (claim 37). (It should also be noted that the location of the reviewer has no effect on the recited structure or functionality and therefore merits little, if any, patentable weight.)

Regarding claim 40, Johns Manville fails to explicitly teach that the project information is transmitted to the central computer through a network from a user computer; however, Official Notice is taken that it is old and well-known in the art to gather project information at a central computer through a network from a user computer. For example, various participants in a project may contribute information to be collated at a central computer. This facilitates the quick and economic gathering of

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data from disparate locations to yield analysis based on the collection of gathered data. Johns Manville runs myriad tests for a given project (e.g., it ran more than 100 tests for Herman Miller's project, as disclosed in ¶ 25 of Higgins). In order to better accommodate the receipt of results from tests performed at different stations in the laboratory, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt the modified version of Johns Manville's acoustical testing system to gather project information through transmission to the central computer through a network from a user computer to facilitate the quick and economic gathering of data from disparate locations (such as testing stations) to yield analysis based on the collection of gathered data.

As per claims 41 and 43, Johns Manville provides acoustical testing for many customers, including Herman Miller, who is evaluating various office panels (Higgins: ¶ 24). The cited articles do not expressly disclose an embodiment involving building plans for a residential structure *per se*; however, Johns Manville's testing is beneficial to any building structures requiring noise reduction considerations. Official Notice is taken that it is old and well-known in the art of residential construction to consider noise reduction issues when planning the structures of residential buildings. This consideration tends to increase the contentment of homeowners with the building developers. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to apply Johns Manville's acoustical testing to building plans for a residential structure in order to attract the business of building developers, thereby increasing its customer base.

As per claims 50 and 51, Johns Manville evaluates acoustical test results regarding fiberglass (Higgins: ¶¶ 23, 28), which is a type of sound absorbing material (claim 50) and hardboards, steel, and metal panels (Higgins: ¶¶ 26-27), which are examples of sound blocking materials.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Susanne Diaz*  
**SUSANNA M. DIAZ**  
**PRIMARY EXAMINER**  
*AU 3623*

*1/10/05*